

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jay D. KRANZLER *et al.*

Confirmation No.: 4067

Application No.: 10/623,431

Group Art Unit: 1614

Filing Date: July 18, 2003

Examiner: Alicia R. HUGHES

For: METHODS OF TREATING FIBROMYALGIA
SYNDROME, CHRONIC FATIGUE
SYNDROME AND PAIN

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Office Action mailed May 16, 2008.

The Examiner has required election of a species of drug used in combination with milnacipran as recited in claims 99, 109 and 119. Applicant hereby elects pregabalin as the species of additional drug with traverse. Claims 99, 101, 109, 111, 119, and 121 read upon the elected species.

Applicants respectfully traverse the Requirement for Restriction and reserve the right to petition therefrom under 37 C.F.R. 1.144. Under Patent Office examining procedures, "if the search and examination of an entire application can be made without serious burden, the Examiner *must* examine it on the merits, even though it includes claims directed to distinct or individual

inventions.” M.P.E.P. 803 (emphasis added). Here, a search for methods of treatment involving milnacipran would also uncover references that disclose milnacipran combination therapies. Thus, search and examination of all pending claims would not impose a serious burden on the Examiner. Accordingly, Applicants respectfully request that the Examiner withdraw the requirement for species election.

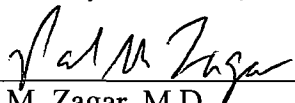
Conclusion

This paper is believed to be fully responsive to the requirement for species election. In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner’s Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: June 4, 2008

Respectfully submitted,

By 
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